

Application Serial No.: 09/765,881
Art Unit: 3713**REMARKS**

This is a full and timely response to the outstanding final Office Action mailed July 8, 2005. Claims 1-6 and 18-19 remain pending in the present application. Reconsideration and allowance of the application and pending claims are respectfully requested.

1. Response To Rejections of Claims Under 35 U.S.C. §103

In the Office Action, claims 1-6 and 18-19 stand rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over *Peters* (U.S. Patent No. 5,842,195). It is well-established at law that, for a proper rejection of a claim under 35 U.S.C. §103 as being obvious based upon a combination of references, the cited combination of references must disclose, teach, or suggest, either implicitly or explicitly, all elements/features/steps of the claim at issue. *See, e.g., In re Dow Chemical, 5 U.S.P.Q.2d 1529, 1531 (Fed. Cir. 1988), and In re Keller, 208 U.S.P.Q.2d 871, 881 (C.C.P.A. 1981).* Applicants discuss the *Peters* reference and Applicants' claims in the following.

a. Claims 1-6

As provided in independent claim 1, Applicants claim:

A method using discrete logic circuits on a microprocessor for collecting survey data stored in memory, comprising the steps of:
defining a question stored in flash memory for presentation in a survey; defining a plurality of potential answers, each one of said plurality of potential answers stored in flash memory corresponding to said question;
assigning a question code to said question;
assigning a plurality of choice codes, one of each said choice code assigned uniquely to each one of said plurality of potential answers;
creating question choice records using logic gates with logic functions for associating question code with each choice code;
presenting said question to a survey participant using an application specific integrated circuit; and
presenting said set of potential answers to said survey participant using the application specific integrated circuit in accordance with said question choice records, *wherein an answer record is generated and forwarded to a database each time said survey participant completes a selection of an answer, said answer record reflecting the answer selected from said set of potential answers by said survey participant.*

(Emphasis added).

Applicants respectfully submit that independent claim 1 is allowable for at least the reason that *Peters* does not disclose, teach, or suggest at least "wherein an answer record is

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generated and forwarded to a database each time said survey participant completes a selection of an answer, said answer record reflecting the answer selected from said set of potential answers by said survey participant," as recited and emphasized above in claim 1.

Rather, *Peters* appears to clearly and diversely disclose at most a system where an entire survey is completed and then a response document containing all the responses to the survey questions is e-mailed back to a survey originator. *See, e.g.,* Fig. 11 and col. 20, lines 11-15. ("Once they have answered all the questions the (FINISH) screen (FIG. 11) will appear thanking them for the involvement in the survey. Once they press Enter or click Finish all of their answers will be transmitted back to the Survey Collator Module automatically"). Therefore, *Peters* fails to teach or suggest at least the feature "wherein an answer record is generated and forwarded to a database each time said survey participant completes a selection of an answer," as recited in claim 1.

Therefore, a *prima facie* case establishing an obviousness rejection by *Peters* has not been made. Therefore, the rejections of claim 1 and claims 2-6 (which depend from claim 1) should be withdrawn.

b. Claim 18

As provided in independent claim 18, Applicants claim:

A system for collecting survey data comprising:
an application specific integrated circuit having eraseable
programmable read-only storage memory for storing data and electronic
format instructions; and

a logic circuit with discrete logic gates configured to implement logic functions, the logic circuit communicating with the storage memory for defining a question for presentation in a survey, defining a set of potential answers to said question, said set comprising a plurality of relevant potential answers to said question, assigning a question code to said question, assigning a choice code to each of said plurality of potential answers, creating question choice records for associating question code with each choice code, presenting said question to a survey participant in accordance with said question choice records, *wherein an answer record is generated and forwarded to a database each time said survey participant completes a selection of an answer, said answer record reflecting the answer selected from said set of potential answers by said survey participant.*

(Emphasis added).

Applicants respectfully submit that independent claim 18 is allowable for at least the reason that *Peters* does not disclose, teach, or suggest at least "wherein an answer record is

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generated and forwarded to a database each time said survey participant completes a selection of an answer, said answer record reflecting the answer selected from said set of potential answers by said survey participant," as recited and emphasized above in claim 18.

Rather, *Peters* appears to clearly and diversely disclose at most a system where an entire survey is completed and then a response document containing all the responses to the survey questions is e-mailed back to a survey originator. See, e.g., Fig. 11 and col. 20, lines 11-15. ("Once they have answered all the questions the (FINISH) screen (FIG. 11) will appear thanking them for the involvement in the survey. Once they press Enter or click Finish all of their answers will be transmitted back to the Survey Collator Module automatically"). Therefore, *Peters* fails to teach or suggest at least the feature "wherein an answer record is generated and forwarded to a database each time said survey participant completes a selection of an answer," as recited in claim 18.

Therefore, a *prima facie* case establishing an obviousness rejection by *Peters* has not been made. Therefore, the rejection of claim 18 should be withdrawn.

c. **Claim 19**

As provided in independent claim 19, Applicants claim:

A system for collecting survey data comprising:
an application specific integrated circuit with erasable programmable read-only storage means for storing data and electronic format instructions;
discrete logic circuit means for defining a question for presentation in a survey;
discrete logic circuit means for defining a set of potential answers to said question, said set comprising a plurality of relevant potential answers to said question;
discrete logic circuit means for assigning a question code to said question;
discrete logic circuit means for assigning a choice code to each of said plurality of potential answers;
discrete logic circuit means for creating question choice records for associating question code with each choice code;
discrete logic circuit means for presenting said question to a survey participant; and
wherein an answer record is generated and forwarded to a database each time said survey participant completes a selection of an answer, the answer record reflecting the answer selected from said set of potential answers by said survey participant.

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(Emphasis added).

Applicants respectfully submit that independent claim 19 is allowable for at least the reason that *Peters* does not disclose, teach, or suggest at least "wherin an answer record is generated and forwarded to a database each time said survey participant completes a selection of an answer, said answer record reflecting the answer selected from said set of potential answers by said survey participant," as recited and emphasized above in claim 19.

Rather, *Peters* appears to clearly and diversely disclose at most a system where an entire survey is completed and then a response document containing all the responses to the survey questions is e-mailed back to a survey originator. See, e.g., Fig. 11 and col. 20, lines 11-15. ("Once they have answered all the questions the (FINISH) screen (FIG. 11) will appear thanking them for the involvement in the survey. Once they press Enter or click Finish all of their answers will be transmitted back to the Survey Collator Module automatically"). Therefore, *Peters* fails to teach or suggest at least the feature "wherin an answer record is generated and forwarded to a database each time said survey participant completes a selection of an answer," as recited in claim 19.

Therefore, a *prima facie* case establishing an obviousness rejection by *Peters* has not been made. Therefore, the rejection of claim 19 should be withdrawn.

d. Official Notice

Additionally, Applicants respectfully traverse the finding in the Office Action of Official Notice with regard to the pending claims. Per MPEP 2144.03(A), "It would not be appropriate for the examiner to take official notice of facts without citing a prior art reference where the facts asserted to be well known are not capable of instant and unquestionable demonstration as being well-known." Also, per MPEP 2144.03(B), "If such notice is taken, the basis for such reasoning must be set forth explicitly. The Examiner must provide specific factual findings predicated on sound technical and scientific reasoning to support his or her conclusion of common knowledge."

As specific factual findings predicated on sound technical and scientific reasoning in support of the conclusion of common knowledge are not provided in the Office Action, the Official Notice and the rejections based upon this finding should be withdrawn. Further, under 37 CFR § 1.104(d)(2), if the rejections are based on facts within the personal knowledge of the examiner, "the data should be stated as specifically as possible, and the facts must be supported, when called for by the applicant, by an affidavit from the examiner.

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Such an affidavit is subject to contradiction or explanation by the affidavits of the applicant and other persons." Therefore, if this rejections are maintained, Applicants respectfully request that document(s) be provided as support.

CONCLUSION

For at least the reasons set forth above, Applicants respectfully submit that all objections and/or rejections have been traversed, rendered moot, and/or accommodated, and that the pending claims are in condition for allowance. Favorable reconsideration and allowance of the present application and all pending claims are hereby courteously requested. If, in the opinion of the Examiner, a telephonic conference would expedite the examination of this matter, the Examiner is invited to call the undersigned agent at (770) 933-9500.

Respectfully submitted,


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